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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,883	03/13/2001	Junichi Umehara	9366/8001	1834

757 7590 03/15/2004

GENERAL NUMBER 00757
BRINKS HOFER GILSON & LIONE
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EXAMINER

GARG, YOGESH C

ART UNIT PAPER NUMBER

3625

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-35, drawn to a method for on-line purchasing electronic information classified in class 705, subclass 26.

II. Claims 36-41, drawn to a system (product) for on-line purchasing electronic information, classified in class 705, subclass 26

2. The inventions are distinct, each from the other because: The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of Invention II cannot be used to practice Invention I because it does not include or recite system elements (hardware and software) to enable users to select, sample, mix and order electronic information, pay for the ordered information, printing labels on the medium, and as such the invention I can be practiced by another materially different apparatus.

3. Because these inventions are distinct for the reasons given above and the search required for Invention I is not required for Invention II, restriction for examination purposes as indicated is proper.

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4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

SPECIES

This application contains claims directed to the following patentably distinct species of the claimed invention. ***In the event applicant elects Invention I above, he is further obligated to elect among the following species as follows:***

species of claims 5-10;

species of claims 11-16

species of claims 17-21

species of claims 22-27

species of claims 28-30

species of claim 31

species of claim 32

species of claims 33-34

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-4, 35 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

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thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.


5. A telephone call was made to attorney Mr. Tony Curtis on March 5, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 703-306-0252. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yogesh C Garg
Examiner
Art Unit 3625

YCG
March 11, 2004